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Council

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Neil J. Pedersen, *Administrator*

April 12, 2011

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The Honorable Bruce R. Williams
Mayor, City of Takoma Park
75090 Maple Avenue
Takoma Park MD 20912

Office of the City Manager

Dear Mayor Williams:

Thank you for your coordination and partnership with the State Highway Administration (SHA) regarding the resolution of the future ownership and maintenance of MD 410 within the City of Takoma Park (City). Portions of Philadelphia Avenue and Ethan Allen Avenue have been signed and have been functioning as part of MD 410 for over 50 years. However, questions have been raised regarding the ownership of the roadway within the City.

Assistant District Engineer, Kate Mazzara, and I appreciated the opportunity to attend the November 8, 2010 public hearing regarding the ownership and maintenance issues. As a result of issues raised at that meeting, SHA carefully researched the ownership of MD 410 and found that SHA has very few plats depicting SHA's ownership along MD 410 in the City, with the exception of sections where SHA has improved intersections with other state roads or where SHA has acquired easements for traffic signals. Although SHA does not document ownership by other entities, it appears that a majority of MD 410 existed as City streets before MD 410 was constructed as a state highway to the east and west of the City.

In the interest of resolving the ownership and maintenance issues for MD 410 within the City, SHA proposes the following resolution:

- (1) The City would retain any rights of way it owns outside the curb lane of the existing roadway along Philadelphia and Ethan Allen Avenues;

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- (2) SHA would claim a prescriptive easement along those same portions within the footprint of the roadway. A prescriptive easement is an easement, upon real property owned by another person or entity, that is acquired through continued use without the owner's permission for a period of time. As stated, portions of this road have been functioning as a part of MD 410 for over 50 years. This is a solution that has been used elsewhere in the state where there is no clear title to the land on which a roadway is situated;
- (3) SHA would grind, overlay, and continue to maintain the pavement of these portions of Philadelphia and Ethan Allen Avenues, which will be designated MD 410. A project to rehabilitate and resurface Philadelphia and Ethan Allen Avenues has been fully designed and, once an agreement is reached between SHA and the City, may be advertised for construction. The advertisement process will take approximately three (3) months;
- (4) SHA would continue to provide snow plowing and would assume long-term maintenance functions within the footprint of Philadelphia and Ethan Allen Avenues, including, but not limited to, pothole repair, resurfacing, and drainage;
- (5) SHA would work jointly with the City on signal timing issues and any proposed changes to pavement markings and signage;
- (6) In order to assure that the pavement is consistently maintained along the entire MD 410 corridor through the City, SHA would be responsible for any and all permits issued along this corridor, but would partner with the City in the process as follows:
 - a. SHA would send all permit requests to the City for its concurrent review of the proposed work;
 - b. SHA would address the City's comments before issuing a permit;
 - c. SHA would send the City a copy of a final permit;
 - d. SHA would allow the City to have its own inspector present, along with SHA personnel;
 - e. SHA would allow the City to perform its own quality review and share with SHA;
 - f. SHA would allow the City to have an inspector present at any final inspection that was performed;
 - g. SHA would take any and all reasonable measures to address the City's concerns before releasing a permit;
 - h. The City would continue to acquire permits from SHA for any work that would affect the pavement or roadway function.
- (7) The City would assume maintenance responsibility for the portion of the right of way outside the curbs of Philadelphia and Ethan Allen Avenues, including sidewalks.

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- (8) The City would grant a right of entry to SHA for any necessary work to be performed outside the curb, including, but not limited to, construction of ADA ramps for sidewalks as part of the project referenced in (3).

Thank you, again, for your willingness to work with SHA. We look forward to discussing this new proposal with you and your staff. If you have any additional questions, please do not hesitate to contact Mr. Brian W. Young, SHA District Engineer, at 301-513-7311, toll-free in Maryland 1-800-749-0737 or via email at byoung@sha.state.md.us. Of course, you should never hesitate to contact me directly, if you prefer.

Sincerely,



Neil J. Pedersen
Administrator

cc: The Honorable Colleen Clay, Councilmember, City of Takoma Park
The Honorable Sheila E. Hixson, Maryland House of Delegates
The Honorable Thomas Hucker, Maryland House of Delegates
The Honorable Heather R. Mizeur, Maryland House of Delegates
The Honorable Jamie B. Raskin, Senate of Maryland
The Honorable Dan Robinson, Councilmember, City of Takoma Park
The Honorable Terry Seamens, Councilmember, City of Takoma Park
The Honorable Fred Schultz, Councilmember, City of Takoma Park
The Honorable Reuben Snipper, Councilmember, City of Takoma Park
The Honorable Josh Wright, Councilmember, City of Takoma Park
Ms. Daryl Braithwaite, Department of Public Works, City of Takoma Park
Ms. Kate Mazzara, Assistant District Engineer-Project Development, SHA
Ms. Beverley K. Swaim-Staley, Secretary, Maryland Department of Transportation
Mr. Brian W. Young, District Engineer, SHA